Implementing Agreement

Between

the Washington State
Department of Ecology

and

the Washington State
Department of Transportation

Regarding Compliance with the State of Washington
Surface Water Quality Standards

THIS IMPLEMENTING AGREEMENT (IA) is being adopted pursuant to the Washington State Department of Ecology, (Ecology), and the Washington State Department of Transportation, (WSDOT) Memorandum of Agreement dated August 4, 198S. The 1988 MOA states that the responsibilities of the two agencies requires coordination of technical and environmental information to provide a timely and efficient review of permit applications. Implementing agreements are intended as supplements to the MOA, to describe specific procedures to enhance coordination and cooperation, and reduce the time required in the permit process.

I. PURPOSE AND SCOPE

Numerous WSDOT projects require work in or adjacent to waters of the state. This agreement is meant to replace the WSDOT General Short Term Water Quality Modification issued April, 1997, and to assist WSDOT in maintaining compliance with the aquatic laws and regulations of the State of Washington.

II. CRITERIA FOR USE

The Agreement is intended for use by WSDOT and WSDOT hired contractors. To maintain compliance with the Water Quality Standards (Standards), every WSDOT project shall meet the following:

1. WSDOT shall comply with the water quality criteria specified in Chapter 173-201A WAC, and RCW 90.48 Water Pollution Control. Failure to comply with the State's Water Quality Standards may result in the issuance of civil penalties or other actions, whether administrative or judicial. Parties anticipate that compliance with conditions of this agreement should result in meeting applicable Water Quality Standards.

2. For work in or near the water WSDOT shall comply with the general conditions and activity specific conditions within this Agreement for the type of activity to be completed and any other appropriate Best Management Practice (BMP) necessary to ensure the Standards are met. If a proposed project does not meet the specific activity types listed, WSDOT shall be responsible for providing protective measures to ensure compliance with the Standards.

3. This document does not relieve WSDOT from complying with all requirements of an applicable NPDES Permit, nor does this Agreement authorize the discharge of pollutants to waters of the state. If a discharge is expected, contact Ecology's NPDES section for approval, or submit a JARPA application for a CWA Section 401 Water Quality Certification when a CWA Section 404 permit is required from the Corps of Engineers.

4. This Agreement does not relieve the applicant from the responsibility of meeting applicable regulations of other federal, state, and local agencies. In addition, where highway project activities occur in or adjacent to waters within Native American Indian Reservation boundaries, contact with the Tribe shall be made to address Tribal regulations. Some Tribes have developed and adopted Standards separate from state or federal water quality criteria.

5. This agreement does not reduce or supersede any requirements of the Model Toxics Control Act, or rules promulgated thereunder. DOT shall contact Ecology Regional Offices for approval of a MTCA cleanup.

III. Implementation (Roles And Responsibilities)

A. Ecology agrees to:

1. Provide technical support on water quality issues for WSDOT projects and policy development;

2. The Department of Ecology retains continuing jurisdiction to gain compliance through supplemental Agreement or enforcement action, including orders and penalties.

3. Provide expedited review of WSDOT applications for NPDES permits for experimental BMPs, and for CWA Section 401 water quality certifications. The parties will amend this agreement with the expedited review process within 3 months of execution of this Agreement. An expedited review process for State Waste Discharge Permits will also be considered.

B. WSDOT agrees to:

1. Comply with the State of Washington's Surface Water Quality Standards;

2. Immediately notify Ecology's Regional Office, per general condition #14, in the event of a spill, or if the conditions of the Agreement are violated either by WSDOT, or a WSDOT hired contractor;

3. Notify Ecology through submittal of a JARPA application, or phone contact for the following:

    a. all new construction projects that require a CWA Section 401 Water Quality Certification for which Ecology has jurisdiction (JARPA application required - contact the Federal Permits Unit, SEA Program);

    b. a phone or e-mail contact to Ecology's Region Water Quality Program prior to starting work on a project that is large, contentious, or when a significant amount of work in the water will take place, this will allow Ecology regional office to be prepared for responses to citizen complaints if they are received,

    c. any activity resulting in a discharge to waters of the state that is not covered by a 401 Water Quality Certification — an NPDES or State Waste discharge permit will be required — notify Ecology's Regional Office with jurisdiction in the location of the project;

    d. any project that does not comply with the conditions listed in the Agreement.

4. Attach applicable conditions of this Agreement to the contract documents for projects in or adjacent to waters of the State to make sure contractors are aware of the requirements prior to bidding on the job. Prior to the start of work, WSDOT shall review the conditions with the selected contractor, and a copy of the Agreement with the applicable conditions specified shall be located at the job site at all times during construction.

5. Require any contractor working on WSDOT projects to comply with conditions of this Agreement and any other conditions or methods to ensure water quality compliance for the site. WSDOT is ultimately responsible for compliance with the Standards, however WSDOT hired contractors may also be held liable for any water quality violations, especially in cases of violations resulting from contractor negligence.

IV. Revisions

Revisions to this implementation Agreement shall be provided in writing, and agreed to and signed by both parties.

Ecology reserves the right to issue stop work orders, notices of violations, and penalties if WSDOT violates the water quality criteria of the State of Washington.

Revisions to the Agreement proposed by WSDOT shall originate with the WSDOT Environmental Affairs Office. If the parties to the Agreement agree, revisions that are needed immediately may be made prior to the yearly review as defined below.

This Agreement shall be reviewed at the end of the first year following implementation, and as needed thereafter (not to exceed every five years). During this review, all proposed changes shall be reviewed and agreed upon by both parties, and changes shall be made one time each year.

This Agreement is to be effective upon the date of signature below. This agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind either of the parties hereto. This agreement may be terminated by either party upon thirty (30) days written notice to the other party.

IN WITNESS WHEREOF, the parties execute this agreement.

WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION

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Jerry Alb, Director
Environmental Services
Washington State Dept. of Transportation

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WASHINGTON STATE
DEPARTMENT OF ECOLOGY

_____

Megan White, Program Manager
Water Quality Program
Washington State Dept. of Ecology

_____

Approval as to form:

_____
Assistant Attorney General — Ann Spangler

_____
Assistant Attorney General — Ron Lavigne

Conditions for Administrative Agreement

Dealing with Water Quality Standards Compliance for the Washington State Department of Transportation

General Conditions

The following general conditions, and conditions outlined in the Implementing Agreement shall be met on site during construction for any project occurring in or near the water. Development of new technology, techniques, or Best Management Practices may be used by WSDOT providing the methods used result in compliance with the standards.

1. Contractors working on WSDOT projects are required to comply with the Standards. WSDOT is ultimately responsible for compliance with the Standards even when the work is contracted out. However both WSDOT and the contractor may be held liable for any violation of the Standards.

2. The activities must comply with all water quality protection related conditions contained in the Washington State Department of Fish and Wildlife (WDFW) Hydraulic Project Approval (HPA) including time limitations.

3. Copies of the general conditions and the specific conditions that apply to the project site contained within this Agreement shall be reviewed with all hired contractors prior to the start of the project, and kept on the job site at all times during construction.

4. Water Quality

4a. All work in or near the water, and water discharged from the site shall meet the State's Water Quality Standards, WAC 173-201A. A mixing zone for turbidity is authorized within WAC 173.20 lA-030-during and immediately after necessary in-water or shoreline construction activities that result in the disturbance of in-place sediments. Use of a turbidity mixing zone is intended for brief periods of time (such as a few hours or days) and is not an authorization to exceed the turbidity standard for the entire duration of the construction. Use of the mixing zone is subject to the constraints of WAC 173-201A- 100(4) and (6), requiring an applicant have supporting information that indicates the use of the mixing zone shall not result in the loss of sensitive or important habitat, substantially interfere with the existing or characteristic uses of the waterbody, result in damage to the ecosystem, or adversely affect public health. The mixing zone is authorized only after the activity has received all other necessary local and state permits and approvals, and after the implementation of appropriate best management practices to avoid or minimize disturbance of in-place sediments and exceedances of the turbidity criteria. Within the mixing zone, the turbidity standard is waived, and all other applicable water quality standards shall remain in effect. The mixing zone is defined as follows:

1) For waters up to 10 cfs flow at time of construction, the point of compliance shall be 100-feet downstream of project activities.

2) For waters above 10 cfs up to 100 cfs flow at time of construction, the point of compliance shall be 200-feet downstream of project activities.

3) For waters above 100 cfs flow at the time of construction, the point of compliance shall be 300 feet downstream of project activities.

4) For projects working within or along lakes, ponds, wetlands, estuaries, marine waters or other non-flowing waters, the point of compliance shall be at a radius of 150-feet from the activity causing the turbidity exceedance.

5. In all cases, the project will be designed to avoid and minimize impacts to waters of the state.

5a. There shall be no visible sheen from petroleum products in the receiving water as a result of project activities.

5b. Work in or near the waterway shall be done so as to minimize turbidity, erosion, other water quality impacts, and stream bed deformation.

5c. All construction debris and excess sediment shall be properly managed and disposed of so as to prevent it from entering the waterway or cause water quality degradation to state waters.

6. **Concrete** — All concrete shall be poured in the dry, or within confined waters not being dewatered to surface waters, and shall be allowed to cure a minimum of seven (7) days before contact with water. The waters of the state shall not come in contact with the concrete structure while the concrete is curing. Fresh, uncured concrete in direct contact with the water is toxic to aquatic life. Any dewatering required from a contained area with curing concrete shall be discharged to land with no possible entry to surface waters. If the project occurs in a location that has a municipal sanitary sewer system and no land available for biofiltration, discharge shall be to the sanitary sewer. Contact the local sewer authority prior to discharge.

7. **Erosion Control**

7a. All areas disturbed or newly created by the project construction shall be stabilized as soon as possible to prevent erosion and shall comply with the Temporary Erosion and Sediment Control Plan (TESC).

7b. All erosion control and storm water measures shall meet or exceed WSDOT's Highway Runoff Manual and DOT's approved Stormwater Site Plan (SSP).

7c. Periodic inspection and maintenance of all erosion control structures shall be conducted no less than every 7 days. Additional inspections shall be conducted prior to and after expected rainfall events to ensure erosion control measures are in working conditions. Any damaged structures shall be immediately repaired. If it is determined at the inspection that additional measures are needed to control storm water and erosion, they shall be implemented immediately.

8. **Hazardous Spill Prevention And Control**

8a. No petroleum products, fresh cement, lime or concrete, chemicals, or other toxic or deleterious materials shall be allowed to enter waters of the state.

8b. Equipment that enters the state's waters shall be maintained to prevent any visible sheen from petroleum products from appearing on the water.

8c. The discharge of oil, fuel or chemicals to waters of the state, or onto land with a potential for entry into state waters, is prohibited.

8d. No emulsifiers or dispersants are to be used in waters of the state without written approval from the Department of Ecology, Regional Office.

8e. No cleaning solvents or chemicals utilized for tool or equipment cleaning may be discharged to the ground or to waters of the state.

8f. All oil, fuel or chemical storage tanks or containers shall be diked and located on impervious surfaces so as to prevent spills from escaping to surface waters or ground waters of the state. Waste liquids shall be stored under cover, such as tarpaulins or roofs.

8g. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters. Proper security shall be maintained to prevent vandalism.

8h. Concentrated waste or spilled chemicals shall be transported off site for disposal at a facility approved by the Department of Ecology or appropriate County Health Department. These materials shall not be discharged to any sewer without approval of the local sewer authority.

9. **Spill Reporting**

9a. Spills into state waters, spills onto land with a potential for entry into state waters, or other significant water quality impacts such as distressed or dead fish noticed in the project vicinity, shall be reported immediately to the Ecology Regional Office in the region where the project is taking place. Containment and clean-up efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Clean-up shall include proper disposal of any spilled material and used clean-up materials.

9b. Paint and solvent spills shall be treated as oil spills and shall be prevented from reaching storm drains and subsequent discharge into the water. Any such spill shall be reported to the Ecology Regional Office immediately.

9c. Department of Ecology Regional Office 24 hour telephone reporting numbers.

Central Region	(509) 575-2490
Eastern Region	(509) 456-2926
Northwest Region	(425) 649-7000
Southwest Region	(360) 407-6300

9d. In case of fish kills the local Habitat Biologists with the Department of Fish and Wildlife shall be called. If the Habitat Biologists cannot be contacted call (360) 902-2534.

Activity Specific Conditions

WSDOT shall comply with the following specific conditions that apply to the activity that is being conducted. The general and specific conditions shall be located on site during construction In the absence of new technology, techniques, or development of new Best Management Practices, the methods set forth in the Agreement shall be utilized.

I. Maintenance Activities

A. Beaver Dam Removal

1. WSDOT shall comply with conditions outlined in the most current WDFW *Provisions for a General Beaver Dam Removal Hydraulic Project Approval*.

B. Ferry System Maintenance Pile Driving and Removal

1. WSDOT shall comply with conditions outlined in the most current WDFW HPA for *Removal or Driving of Eight or Fewer Piles for Marine Waters.*

C. Highway Bridge and Ferry Terminal Transfer Span Cleaning and Painting Activities

Best Management Practices (BMPs) or other mitigation measures shall be used to contain and control abrasive material, for proper storage and use of chemicals and paint, for oil, paint and chemical spill prevention and control, and for clean-up of supplies and other solid wastes. The following are minimum BMPs expected to be utilized on site.

1. Bridge Washing/Cleaning:

la. Paved surfaces: The paved surface of the bridge shall be dry cleaned of debris accumulations prior to fresh water flushing. Flushing will involve the use of clean water only, to prevent detergents or other cleaning agents from entering waters of the state.

lb. Structural cleaning: Pressure washing of structures shall be done using appropriate screened tarping to control and contain paint particles generated by the activity. Concentrated accumulations of bird feces and nests shall not be allowed to drop into the water. This material shall be scraped from the bridge structure, collected and disposed of at an appropriate upland location.

lc. Pressure washing of concrete structures shall be held to the minimum necessary to maintain structure integrity. Pressure washing of concrete structures can result in an increased pH discharge with a potential to violate state water quality criteria.

2. Tarps shall be used to control and contain abrasive grit and dusts to prevent spent abrasive grit and dusts from reaching state waters. Spent abrasive grit shall be disposed at an appropriate upland location.

3. Periodic inspection and maintenance of all control measures must be provided.

4. Debris accumulations on the bridge, road surface, and within the bridge drains, such as rust, dirt, sand, dust, paint residue and grease shall be collected or swept up and properly disposed of off site. Additional material remaining in the drains after all efforts at hand removal have been attempted, may be flushed with clean, fresh water.

5. Painters shall work from pails containing a maximum of two (2) gallons of paint to minimize the impact of accidental spillage.

6. No cleaning solvents or chemicals utilized for tool or equipment cleaning may be discharged to the ground or water. Cleaning of painting and maintenance equipment shall not be done in state waters nor shall resultant cleaning runoff be allowed to enter state waters. No paint cans, lids, brushes, or other debris shall be allowed to enter state waters.

7. All liquid products shall be stored and mixed on impervious surfaces in a secure covered and contained location to eliminate the potential for spills into state waters.

8. Drip pans or other protective devices shall be required for all paint mixing and solvent transfer operations.

9. Drip tarps shall be suspended below paint platforms to prevent spilled paint, buckets, brushes, etc., from being lost to state waters.

10. Paint and solvent spills shall be treated as oil spills and shall be prevented from reaching storm drains and subsequent discharge into the water. Any such spill shall be reported to the appropriate Ecology Regional Office immediately.

11. The Engineer shall be on site or on call, and be readily accessible to the site at all times while cleaning and painting activities are occurring that may affect the quality of surface water of the state.

12. The Engineer shall have adequate authority to ensure proper implementation of the Pollution Control Plan for Bridge Maintenance and Painting, as well as immediate corrective actions necessary because of changing field conditions.

D. Bridge Pier. Structure, Bridge Protection Device, Stream Bank and Roadway Protection Maintenance and Repair

1. When removing and repairing existing structures, including shear booms, all demolition and construction material shall be removed from the water and disposed of properly in an upland site. During demolition, materials shall not be stored where high tides, wave action, or upland runoff can cause the materials to enter into the water.

2. When replacing the structure Ecology recommends the use of non-treated or recycled materials. WDFW does not allow the use of creosote or pentachlorophenol treated wood in lakes (WAC 220-110-060(4)). If creosote treated or other protective material is allowed for rivers or marine waters, it shall be completely dry before use in or near the waterway to minimize leaching to the water or bed. WSDOT shall comply with the requirements for the use of treated wood in the HPA. Please refer to the Memorandum of Agreement between WDFW and Ecology regarding use of treated wood in aquatic areas.

3. Material used to construct road approaches to access the project site shall be of clean composition and placed in a manner to prevent erosion and siltation that might result from high water and/or heavy rains. The approach area shall be stabilized and planted to meet WDFW and local requirements upon completion of the project.

4. Riprap shall be clean and durable, free from dirt, sand, clay, and rock fines. Riprap placed to repair flood or other erosion caused damage shall be placed using equipment. End dumping of clean riprap from the bridge deck into the work zone is allowed only if other means of transport to the work zone would be more intrusive on the environment.

5. Unless authorized by WDFW, heavy equipment shall not enter any waterbody, and shall be operated as far from the waters edge as possible. If allowed by WDFW, the Ecology authorized turbidity dilution zone shall be met, and no visible sheen of oil shall be allowed. Impacts to bank and shoreline vegetation shall be limited to the maximum extent possible. Areas damaged by equipment or by placing of approach materials shall be stabilized or replanted where destroyed or damaged by equipment used in the repair work.

6. Stream bank and roadway protection projects should evaluate the use of bioengineering techniques. Please consult with the local WDFW Habitat Biologist.

E. Debris Removal from Bridge Piers, Piles, Braces, and Abutments

1. All debris removed from the bridge shall be properly stored far enough on the bank so as not to enter the waterway or cause water quality degradation to state waters.

2. WSDOT shall consult with WDFW, local governments, or the Natural Resource Conservation Service for ideas on beneficial uses of any large woody debris material prior to disposal of such material. Large woody debris is defined as trees or tree parts larger than four inches in diameter and longer than six feet and rootwads. Large woody debris may be specifically authorized by WDFW to be left in the stream below the bridge.

3. Bank vegetation shall be protected during removal and storage of debris material. If vegetation is destroyed, the bank shall be immediately replanted upon completion of debris removal.

4. When removing material, equipment shall operate from the bridge or bank. Unless authorized by WDFW, no heavy equipment shall enter the flowing water. If allowed by WDFW, the Ecology authorized turbidity dilution zones shall be met, and no visible sheen of oil shall be allowed.

F. Ditch, Stream, and Culvert Cleaning and Maintenance

1. **Stream Channel Cleaning**

   la. For areas where gravel bar removal is required, no equipment shall be allowed to enter the water unless access to the gravel bar through the water is authorized by WDFW.

   lb. All requirements of the WDFW HPA shall be followed.

   lc. No gravel processing (sorting, screening, or crushing) or other industrial activities (hot mix asphalt plant or concrete batch plant) that would require coverage under the NPDES Sand and Gravel General Permit is permitted on the gravel bar.

2. Ditch and culvert cleaning activities shall take place when the ditch or culvert does not contain water whenever possible. If the ditch or culvert has flowing water that discharges to surface waters of the state at the time of the cleaning activity, temporary sediment traps shall be used to control turbid water created by the activity. Placement of a series of small reusable structures along the ditch line can successfully control turbidity created by the activity.

3. Disturbance to bank and wetland vegetation adjacent to the ditch shall be held to a minimum.

4. All material excavated from roadside ditches or streams shall be completely removed and disposed of at an upland location. No material shall be side cast into adjacent wetlands or other waters of the state, unless authorized by WDFW for stream habitat improvement.

5. If material is placed on the upland to dewater, it shall be contained or placed in such a way that the runoff will not flow into nearby storm drains, or waterbodies, including wetlands occurring adjacent to the ditch. Any flow of slurry water shall be controlled to reduce suspended sediment levels prior to discharge back into any adjacent waterbody. This return water shall not exceed the standards.

G. Ferry Sacrificial Structures, Wing Walls, Dolphins

1. When removing and repairing existing structures, all demolition and construction material shall be removed from the water and disposed of properly in an upland site. During demolition, materials shall not be stored where high tides, wave action, or upland runoff can cause the materials to enter the water.

2. When replacing the structure, Ecology recommends the use of steel, concrete, plastic or recycled materials. If creosote treated or other protective material is allowed for the waterbody in which the project is taking place, it shall be completely dry before use in or near the waterway. Please refer to the Memorandum of Agreement (MOA) between WDFW and Ecology regarding use of treated wood in aquatic areas. WSDOT shall comply with the requirements for the use of treated wood in the HPA and the MOA.

3. Every attempt shall be made to reduce shading impacts when replacing structures over vegetated areas.

4. Unless authorized by WDFW, heavy equipment shall not enter the waterbody, and shall be operated as far from the water's edge as possible. If allowed by WDFW, the Ecology authorized turbidity dilution zone shall be met, and no visible sheen of oil shall be allowed. Impacts to bank and shoreline vegetation shall be limited to the maximum extent possible, and immediately replanted where destroyed or damaged by equipment used in the repair work.

5. If sacrificial structures are being replaced in an area of contaminated sediments, Ecology's Sediment Management Section shall be contacted prior to starting work to determine if sediment cleanup will be required. Any new structures shall not foreclose future cleanup options, and WSDOT shall be responsible for additional costs incurred by such structures to the extent future cleanup is inhibited by such structures.

H. Maintenance and Relocation of Navigation Buoys

1. Every effort shall be made to minimize disturbance of bottom sediments when placing the buoys.

2. In contaminated sediment sites, a work barge shall be used to move the buoys. The buoys shall not be relocated by dragging along the bottom of a site with contaminated sediments.

3. Cleaning of buoys shall be done by spraying with clean water. No chemicals or solvents shall be used when cleaning buoys over the water. If buoys are removed for cleaning, all solvent or chemicals used for cleaning shall be completely removed from the buoys prior to returning to the water to prevent discharges of chemicals to state waters.

4. Painting of buoys shall be done in the uplands in a contained area to prevent paint, paint chips, or abrasive blasting materials from entering state waters or adjacent storm drains.

I. Maintenance of Storm Water Control and Treatment Structures

1. Cleaning of storm water conveyance systems (catch basins, piping, vaults, detention/retention ponds) by use of vactor or eductor systems shall be performed to minimize discharge of turbid water. Accumulated sediments from vactor or eductor cleaning operations shall be disposed at appropriate locations. Decanting of the liquid portion of vactor wastes in the field shall be handled in the following manner:

    a. Decant water shall be disposed to municipal decant stations and/or sanitary sewers where WSDOT has approval to use.

    b. In cases where approval to use municipal facilities has not been granted, WSDOT shall meet Condition G10 of the NPDES stormwater permit "Decant from street waste vehicles resulting from cleaning stormwater facilities may be reintroduced only when other practical means are not available and only to catch basins remote from the discharge point to waters of the state." Other practical means to consider include allowing the material to settle for a minimum of 30 minutes prior to discharge to either the ground with no discharge to surface water, or discharge upstream of a regional detention pond.

    When discharging to catch basins, WSDOT shall meet all other treatment and handling conditions in the NPDES stormwater permit, the Highway Runoff Manual, and the WSDOT's Stormwater Management Plan.

    c. WSDOT shall adopt a strategy and schedule for meeting new policies when issued by Ecology's Stormwater Section.

2. Cleaning of storm water treatment ponds or swales shall be performed when there is not a possibility of a discharge from the pond for at least 24 hours.

3. If upon inspection of a stormwater facility, the water in the catch basin appears excessively oily, exhibits an unusual color or odor, or if staining or corrosion is observed, illicit dumping may be the cause and the catch basin or vault shall not be disposed or discharged until a characterization of the water can be performed to determine the presence of toxic or hazardous contaminants. If these conditions are observed during wet weather, the material may need to be removed and stored for characterization to prevent a discharge and degradation of waters of the state. During dry weather, removal of the potentially contaminated material is less urgent, and it may be practical to wait until the material is tested. Proper disposal options will be determined based on the characterization.

    If there is a likely source of contamination nearby that may be causing any observed problems, please contact the appropriate Ecology Regional Office to report the information to the Environmental Report Tracking System.

4. If material is placed on the upland to dewater, it shall be contained or placed in such a way that the runoff will not flow directly into adjacent storm drains, or waterbodies, including wetlands occurring adjacent to the ditch. Any flow of slurry water shall be controlled to reduce suspended sediment levels prior to discharging back into any adjacent waterbody. This return water shall not exceed the standards as stated in General Condition 4 of this Agreement.

II. New Construction

Roadway and Bridge Construction Projects

This section applies to projects that have components that entail work in the water for roadway construction. These activities include at a minimum, both new roadway and improvements, stream bank stabilization including stream flow control groins, compliance or re-routing of existing streams, and bridge construction for those portions of work occurring in and over the water.

A. General

For new construction projects requiring a Corps of Engineers 404 Permit, WSDOT shall notify Department of Ecology, Federal Permits Unit in the SEA Program through submittal of the Joint Aquatic Resource Permit Application (JARPA). This notification shall be made no less than three (3) months prior to the commencement of project construction. The Department of Transportation is encouraged to contact the appropriate Regional Office of

the Department of Ecology at any time to discuss proposed project activities and requests for technical assistance on appropriate BMPs.

B. Construction

1. WSDOT and the construction contractor shall use all reasonable measures to assure the construction activity will be in compliance with the Standards. Water quality constituents of particular concern are turbidity, suspended sediment, settleable solids, oil and grease, and pH.

2. **Erosion Control**

   a. All projects that require the implementation of a Stormwater Site Plan or Temporary Erosion and Sediment Control Plan as described in the WSDOT Highway Runoff Manual shall be covered by the conditions in those documents.

   b. For projects not covered by the above situations, the following minimum conditions for erosion and sediment control shall apply:

      1) All exposed and unworked soils shall be stabilized by suitable and timely application of BMPs.

      2) Adjacent and downstream properties shall be protected from sediment deposition from wind or water action.

      3) All sediment control devices including sediment ponds, perimeter silt fencing, and other sediment trapping BMPs shall be installed before grading.

      4) All temporary conveyance channels and pipe outlets shall be stabilized to prevent erosion.

      5) All storm drain inlets that receive flow from the project shall be protected from sediment.

      6) All construction access routes that are subject to water or wind erosion shall be stabilized.

      7) All temporary and permanent erosion control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function.

      8) All temporary BMPs and accumulated sediments shall be removed or stabilized immediately after final site stabilization.

3. If demolition of a concrete bridge or other structure is part of the project, WSDOT shall follow any requirements contained in the HPA for dealing with large concrete pieces. If the method of taking the bridge apart is to saw-cut portions off, tarping is required to control and contain all saw-cut water. The saw-cut water shall be disposed of on land with no possibility of entry to surface waters.

4. Under no circumstances shall free fall dumping of fill material occur in or next to any waterbody unless control structures are in place to prevent sediment from directly entering the waterbody.

5. The natural flow of any affected waterbody shall be diverted around the construction site unless written approval to work in the flowing water is obtained from WDFW. If allowed by WDFW, the Ecology authorized turbidity dilution zone shall be met, and no visible sheen of oil shall be allowed. Diversion may entail tightlining, coffer dams, or equivalent structures. The stream diversion system shall be designed and operated so as to not cause erosion or scour in the stream channel or banks of the waterbody.

6. If using a diversion system, temporary sediment traps shall be cleaned out and the settled sediments removed from the stream channel **before** removing the stream diversion system and returning the stream to its natural channel. Settled sediments shall not be allowed to enter the stream due to water or run off flows that may occur after construction is completed.

7. Clean dewatering water may be discharged directly to waters of the state. Any discharge outfall utilized shall be designed and operated so as to not cause erosion or scour in the stream channel or banks.

8. Turbid water generated from construction activities, including turbid dewatering water, shall **not** be discharged directly to waters of the state. Temporary sediment traps shall be used to allow the turbid water

to settle for a minimum of two hours before discharge. The flow rate of turbid water into the stream shall not exceed one-tenth of the natural flow rate of the stream at the time of discharge.

If measures are developed to bring the turbidity levels of the discharge into compliance with Standards with less than the required detention time, WSDOT may implement such measures after testing to confirm the method will work.

9. All lumber treated with creosote or other protective material shall be completely dry before use in or near the waterway. If creosote treated or other protective material is allowed for the waterbody in which the project is taking place, it shall be completely dry before use in or near the waterway. WSDOT shall comply with the requirements for the use of treated wood in the HPA. Please refer to the Memorandum of Agreement between WDFW and Ecology regarding use of treated wood in aquatic areas.

10. Material used to construct road approaches to the site shall be of clean composition and placed in a manner to prevent erosion and siltation that might result from high water and/or heavy rains.

11. Impacts to bank and shoreline vegetation shall be limited to the maximum extent possible, and replanted immediately where destroyed or damaged.

12. Unless authorized by WDFW, heavy equipment shall not enter the waterbody, and shall be operated as far from the waters edge as possible. If allowed by WDFW, the Ecology authorized turbidity dilution zone shall be met, and no visible sheen of oil shall be allowed.

13. A separate area shall be set aside, that does not have any possibility of draining to surface waters, for the wash out of concrete delivery trucks, pumping equipment, and tools.

14. **Construction Pollution Control Inspection** — The Engineer shall be made available to supervise implementation of the Erosion and Sediment Control Plan, and construction practices.

    14a. The Engineer shall be on call and available to be on site during heavy rainfall, and at all times while construction activities are occurring that may affect the quality of ground or surface waters of the state, especially during heavy rain conditions.

    14b. The Engineer shall have adequate authority to ensure proper implementation of the Erosion and Sediment Control Plan, as well as immediate corrective actions necessary because of changing field conditions. If the Engineer issues agreements or change orders necessary to implement a portion of the pollution control plan or to prevent pollution to the waters of the state, all personnel on site, including the construction contractor and the contractor's employees, shall immediately comply with this agreement or change order.